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HIGH COURT OF CHHATTISGARH AT BILASPUR

S.B. : HON'BLE SHRI SATISH K. AGNIHOTRI, J.

WRIT PETITION (S) 2117 of 2007

PETITIONER : 1. Rajesh Kumar Bhoi S/o Shri Shiv Shanker Bhoi, aged about 33 years, resident of Village Chhotemari/Post Basna Tahsil Basna District Mahasamund (C.G.).
2. Kumari Hemlata Bhar D/o Shri Mokhar Sai Bhar, aged about 23 years, resident of Village and Post Raytum, Tahsil and District Mahasamund (C.G.)

VERSUS

RESPONDENTS : 1. The State of Chhattisgarh, through the Secretary, Department of School Education Mantralaya, D.K.S. Bhawan, Raipur (C.G.)
2. The Chief Executive Officer, Zila Panchayat, Mahasamund District Mahasamund, (CG).
3. The Chief Executive Officer, Janpad Panchayat Mahasamund (CG).
4. The Chief Executive Officer, Janpad Panchayat Basna District Mahasamund (CG).
5. Block Education Officer, Mahasamund (CG).
6. Block Education Officer, Basna (CG).
7. The Head Master, Government Poorva Madhyamik Shala Birkoni District Mahasamund (CG).
8. The Head Master, Government Poorva Madhyamik Shala Bansula Block Basna (CG).

Present: Smt. Renu Kochar, Advocate for the petitioners.
Shri Arvind Dubey, Panel Lawyer for the State / respondents 1, 5, 6, 7 and 8.

ORDER
(Passed on 5th of April, 2007)

1. The petitioners are working as Shiksha Karmi Grade II and posted at Government Girls Middle School Birkoni, and Government Middle School, Bansula, in District Mahasamund, respectively. By order dated 26.09.2006 (Annexure P/7), the petitioners were transferred to Government New Middle School Bansula, Block Basna and Government New Girls Middle School Birkoni, Block Mahasamund, respectively, on mutual basis. Subsequently, vide order dated 03.03.2007 (Annexure P/1), the place of posting of the petitioners were interchanged and the petitioner no. 1 was transferred to the place of petitioner no. 2, and the petitioner no. 2 was transferred to the place of petitioner no. 1, within the same district by the Chief Executive Officer, Jila Panchayat, Mahasamund.

2. The petitioners have filed this petition impugning the order of transfer on the ground that the petitioners had earlier been transferred six months before vide order dated 26.09.2006. The impugned order cannot be passed as the earlier order was passed on the basis of mutual understanding between both the petitioners.

3. This impugned order does not amount to transfer in true sense as the impugned order places persons from one school to other school in the same district. Even otherwise, the petitioners are not questioning the transfer on any other legally available ground except that the earlier order was passed six months before, on mutual understanding between the petitioners and the parents of both the petitioners are suffering from serious ailments.

4. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to here a particular officer/employee be posted, keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the cases of proved malafide, non-competence of authority passing the transfer order and not being in conformity with the rules and regulations.

5. In view of the foregoing, this petition stands dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit